

Appl. No. 10/659,075
Response dated February 28, 2005
Reply to Office Action of Sep. 30, 2004

REMARKS

This is a response to the Office Action dated September 30, 2004. A shortened statutory period was set to expire three months from the date of the Office Action, making a response due by December 30, 2004. Applicant hereby petitions the Commissioner of Patents and Trademarks to extend the time for response for one month from December 30, 2004 to January 30, 2004. There are presently 8 claims pending in the case and all claims stand rejected. This response is being submitted in order to place the case in condition for allowance.

The Examiner rejected claims 1-8 under the doctrine of obviousness type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 5,968,534, claims 1-4 under 6,228,379 and claims 1-6 of U.S. Patent No. 6,419,939. Applicant is submitting herewith a Terminal Disclaimer in order to overcome the double patenting rejection.

Further, claims 1-8 are rejected under 35 U.S.C. §112. Applicant has reviewed the basis of the rejection under §112, and has made the necessary claim amendments in order to overcome these objections. Further, applicant has included new independent claim 10, which reflects a composition which the Examiner noted on page 5 of the Action that the prior art failed to teach. Therefore, applicant feels that this claim is allowable over the art as cited.

Therefore applicant requests that the case be re-examined and a Notice of Allowance be forthcoming.

Should the Examiner feel that a telephone conference would advance the prosecution of this application, he is encouraged to contact the undersigned at the telephone number listed below.

Applicant respectfully petitions the Commissioner for any extension of time necessary to render this paper timely.

Please charge any additional fees due or credit any overpayment to Deposit Account No. 50-0694.

A \$420 check for government fees is enclosed (\$225 for a two month extension and \$195 for three terminal disclaimers).

Appl. No. 10/659,075
Response dated February 28, 2005
Reply to Office Action of Sep. 30, 2004

Respectfully submitted,



Gregory C. Smith, Reg. No. 29,441
Charles C. Garvey, Jr., Reg. No. 27,889
Seth M. Nehrbass, Reg. No. 31,281
Stephen R. Doody, Reg. No. 29,062
Brett A. North, Reg. No. 42,040
GARVEY, SMITH, NEHRBASS & DOODY, L.L.C.
PTO Customer No. 22920
3838 N. Causeway Blvd., Suite 3290
Metairie, LA 70002
Tel.: (504) 835-2000
Fax: 504-835-2070
e-mail: IPLNO@AOL.COM
www.neworleanspatents.com

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 28, 2005.



s m Nehrbass

P:\Greg\RESPONSES\NI1128.2C4-RES.wpd